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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09 439,293	11 12 1999	MYLES C. CABOT	21144-706	1481

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EXAMINER

ZARA, JANE J

ART UNIT	PAPER NUMBER
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1635

DATE MAILED 02 24 2003

22

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/439,293

Applicant(s)

Cabot et al

Examiner

Jane Zara

Art Unit

1635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED, 35 U.S.C. § 133.
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Nov 26, 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-8, 10-15, 17-19, 21, and 22 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-8, 10-15, 17-19, 21, and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some* c) None of:
- Certified copies of the priority documents have been received.
 - Certified copies of the priority documents have been received in Application No. _____.
 - Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | | | |
|---|--|---|---|
| 1 | Notice of References Cited PTO-892 | 4 | Interview Summary PTO-413 Paper No s |
| 2 | Notice of Draftsperson's Patent Drawing Review PTO-948 | 5 | Notice of Informal Patent Application PTO-152 |
| 3 | Information Disclosure Statement s PTO-1449 Paper No s | 6 | Other |

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DETAILED ACTION

Continued Prosecution Application

The request filed on 11-26-02 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/439,293 is acceptable and a CPA has been established. An action on the CPA follows.

Claims 1, 3-8, 10-15, 17-19, 21 and 22 are pending in the instant application.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Response to Arguments

Maintained Rejections

Claims 1, 3-8, 10-15, 17-19, 21 and 22 are rejected under 35 U.S.C. 112, first paragraph, for the reasons of record set forth in the Office action mailed April 24, 2000, January 18, 2001 and October 10, 2002, Paper Nos. 5, 12 and 17, respectively.

No new arguments have been made addressing the instant rejection of record.

Claims 1, 3-8, 10-15, 17-19, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ichikawa et al in view of Milner et al, the combination in view of Liu et al and

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Lucci et al insofar as the claims are drawn to the compositions and methods for reversing drug resistance and inducing apoptosis in a target cell in vitro comprising the administration of an antisense oligonucleotide which targets and inhibits the expression of a nucleic acid encoding glucosylceramide synthase and optionally additionally administering a chemosensitizer or chemotherapeutic agent to the target cell in vitro, for the reasons of record set forth in the Office action mailed October 10, 2002, Paper No. 17.

No arguments have been presented which address the instant rejection.

Conclusion

This is a CPA of applicant's earlier Application No. 09/439,293. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR

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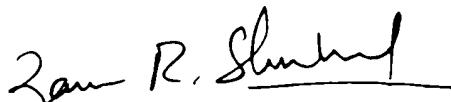
1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Certain papers related to this application may be submitted to Art Unit 1635 by facsimile transmission. The faxing of such papers must conform with the notices published in the Official Gazette, 1156 OG 61 (November 16, 1993) and 1157 OG 94 (December 28, 1993) (see 37 C.F.R. § 1.6(d)). The official fax telephone numbers for the Group are (703) 308-4242 and (703) 305-3014. NOTE: If Applicant *does* submit a paper by fax, the original signed copy should be retained by applicant or applicant's representative. NO DUPLICATE COPIES SHOULD BE SUBMITTED so as to avoid the processing of duplicate papers in the Office.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Jane Zara** whose telephone number is **(703) 306-5820**. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John LeGuyader, can be reached on (703) 308-0447. Any inquiry regarding this application should be directed to the patent analyst, Katrina Turner, whose telephone number is (703) 305-3413. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

JZ

February 18, 2003


RAM R. SHUKLA, PH.D.
PATENT EXAMINER